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09/808,303	03/14/2001	Yoshihito Ishibashi	09792909-4859	3750

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SONNENSCHN NATH & ROSENTHAL LLP  
P.O. BOX 061080  
WACKER DRIVE STATION, SEARS TOWER  
CHICAGO, IL 60606-1080

EXAMINER

THEIN, MARIA TERESA T

ART UNIT PAPER NUMBER

3627

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/808,303

Applicant(s)

ISHIBASHI, YOSHIHITO

Examiner

Marissa Thein

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 January 2006.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-18 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 25, 2006 has been entered.

### ***Response to Amendment***

Applicant's "Response To July 22, 2005 Final Office Action" has been considered.

Claims 1-2, 9-10, 14, and 17-18 are amended. Claims 1-18 remain pending in this application and an action on the merits follows.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claims recite "a first settlement

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log.....first of the plurality of user devices.....by the first user device and a second settlement log is issued from a second of the plurality of user devices to said one of a service provider and a clearing center every time the content is distributed by the second user device.....based on the first settlement log and the second settlement log...”; and “issuing a first settlement log for the use of eh content from a first of plurality.... by the first user device.....; issuing a second settlement log for use of the content from a second of the plurality of user devices to said one of a service provider and a clearing center every time the content is distributed by the second user device; performing settlement processing for the content based on the first settlement log and the second settlement log....” which are not supported in the specification.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claim 18 is rejected under 35 U.S.C. 102(e) as being anticipated by U.S.**

**Patent No. 6,389,538 to Gruse et al.**

Regarding claim 18, Gruse discloses a computer-readable medium having stored therein computer-executable instructions which allows content secondary distribution management processing for managing secondary distribution in which a transaction of

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content usable by a user device is performed between a plurality of user devices to run on a computer system, performing the steps (col. 11, lines 49-64; col. 13, lines 5-9; Figure 6), comprising: issuing a settlement log for the use of the content from a content providing user device to a service provider and a clearing center every time an identical content is distributed; and performing settlement processing for the identical content based on the settlement log under the management of the service provider and a clearing center (see at least col. 47, lines 49-55; col. 13, line 45 – col. 14, line 9; col. 21, lines 46-51; col. 23, lines 19-38).

**Claims 1-17 are rejected below under 35 U.S.C. 103(a) as obvious over the U.S. Patent No. 6,389,538 to Gruse et al. in the alternative, under 35 U.S.C. 103(a) as obvious over the U.S. Patent No. 6,389,538 to Gruse et al in view of Official Notice.**

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,389,538 to Gruse et al.**

Regarding claims 1, Gruse discloses a content secondary distribution management system comprising: a plurality of user devices for managing secondary distribution in which a transaction of content usable by a user device is performed

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between the plurality of user devices (col. 11, lines 49-64; col. 13, lines 5-9; Figure 6), wherein a settlement log (audit logs and tracking col. 47, lines 49-55; col. 13, line 45 – col. 14, line 9) for the use of the content is issued from a content providing on of the plurality of user devices (content provider) to one of a service provider (electronic store) and a clearing center (clearinghouse) every time an identical content is distributed (see at least col. 21, lines 46-51; col. 47, lines 49-55) and a settlement processing for the identical content is performed under the management of the one of a service provider and clearing center (see at least col. 23, lines 19-38).

However, Gruse does not explicitly disclose a first settlement log which is issued from a first of plurality of user devices and a second settlement log which is issued from a second of the plurality of user devices. Gruse does disclose the clearinghouse maintains a audit logs of information for each operation that is performed during content purchase transactions and report request transaction (col. 47, lines 49-52).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the system of Gruse by having the first settlement log which is issued from a first of plurality of user devices and the second settlement log which is issued from a second of the plurality of user devices, since Applicant has not disclosed that having the first and second settlement log solves any stated problem or is for any particular purpose and it appears that the settlement processing would perform equally well with any settlement log.

Regarding claims 9 and 17, Gruse discloses a method and a computer-readable medium having stored therein computer-executable instructions for managing

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secondary distribution in which a transaction of content usable a user device is performed between a plurality for user devices (col. 11, lines 49-64; col. 13, lines 5-9; Figure 6), comprising: issuing a settlement log for the use of the content from a content providing user device to a service provider and a clearing center every time an identical content is distributed; and performing settlement processing for the identical content based on the settlement log under the management of the service provider and a clearing center (see at least col. 47, lines 49-55; col. 13, line 45 – col. 14, line 9; col. 21, lines 46-51; col. 23, lines 19-38).

However, Gruse does not explicitly disclose a first settlement log which is issued from a first of plurality of user devices and a second settlement log which is issued from a second of the plurality of user devices. Gruse does disclose the clearinghouse maintains a audit logs of information for each operation that is performed during content purchase transactions and report request transaction (col. 47, lines 49-52).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method and computer-readable medium of Gruse by having the first settlement log which is issued from a first of plurality of user devices and the second settlement log which is issued from a second of the plurality of user devices, since Applicant has not disclosed that having the first and second settlement log solves any stated problem or is for any particular purpose and it appears that the settlement processing would perform equally well with any settlement log.

**In the Alternative, Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,389,538 to Gruse et al. in view of Official Notice.**

Regarding claims 1, Gruse discloses a content secondary distribution management system comprising: a plurality of user devices for managing secondary distribution in which a transaction of content usable by a user device is performed between the plurality of user devices (col. 11, lines 49-64; col. 13, lines 5-9; Figure 6), wherein a settlement log (audit logs and tracking col. 47, lines 49-55; col. 13, line 45 – col. 14, line 9) for the use of the content is issued from a content providing on of the plurality of user devices (content provider) to one of a service provider (electronic store) and a clearing center (clearinghouse) every time an identical content is distributed (see at least col. 21, lines 46-51; col. 47, lines 49-55) and a settlement processing for the identical content is performed under the management of the one of a service provider and clearing center (see at least col. 23, lines 19-38).

However, Gruse does not explicitly disclose a first settlement log which is issued from a first of plurality of user devices and a second settlement log which is issued from a second of the plurality of user devices. Gruse does disclose the clearinghouse maintains a audit logs of information for each operation that is performed during content purchase transactions and report request transaction (col. 47, lines 49-52).

The Examiner takes Official Notice that it is old and well known in the art to have a first settlement log which is issued from a first of plurality of user devices and a second settlement log which is issued from a second of the plurality of user devices.



It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the system of Gruse with the first settlement log which is issued from a first of plurality of user devices and the second settlement log which is issued from a second of the plurality of user devices as well know in the art, because the first and second settlement log allow to manage the validation of a user, profile of a user, and verification of content distribution to a large base of users.

Regarding claims 9 and 17, Gruse discloses a method and a computer-readable medium having stored therein computer-executable instructions for managing secondary distribution in which a transaction of content usable a user device is performed between a plurality for user devices (col. 11, lines 49-64; col. 13, lines 5-9; Figure 6), comprising: issuing a settlement log for the use of the content from a content providing user device to a service provider and a clearing center every time an identical content is distributed; and performing settlement processing for the identical content based on the settlement log under the management of the service provider and a clearing center (see at least col. 47, lines 49-55; col. 13, line 45 – col. 14, line 9; col. 21, lines 46-51; col. 23, lines 19-38).

However, Gruse does not explicitly disclose a first settlement log which is issued from a first of plurality of user devices and a second settlement log which is issued from a second of the plurality of user devices. Gruse does disclose the clearinghouse maintains a audit logs of information for each operation that is performed during content purchase transactions and report request transaction (col. 47, lines 49-52).

The Examiner takes Official Notice that it is old and well known in the art to have a first settlement log which is issued from a first of plurality of user devices and a second settlement log which is issued from a second of the plurality of user devices.

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method and computer-readable medium of Gruse with the first settlement log which is issued from a first of plurality of user devices and the second settlement log which is issued from a second of the plurality of user devices as well know in the art, because the first and second settlement log allow to manage the validation of a user, profile of a user, and verification of content distribution to a large base of users.

*It is noted that the dependent claims below are rejected under both alternative rejections above.*

Regarding claim 2, Gruse discloses a content receiving user (end user) device for receiving the content deducts a content usage fee from an electronic money balance up to an allowable amount of money set in an issue log based on information of usage control policy of the content, the content receiving user device creates a usage log; the content providing user device creates a receive log and sends the receive log to the service provider and a clearing center; and the service provider and the clearing center performs the settlement processing for the electronic money for the use of the content based on the receive log, and requests and account management institution to perform transfer processing for the content usage fee; and the account management institution performs the transfer processing (see at least col. 48, lines 1-43; col. 49, lines 31-61).

Regarding claims 3-8 and 10-16, Gruse discloses:

- the content to be distributed between the user devices is contained in a secure container which stores a content price and information of a usage control policy including profit distribution information (see at least col. 10, lines 9-17), and wherein the service provider and a clearing center constructs a form of the transfer processing according to a log containing a content fee payer and a content fee receiver based on the profit distribution information (see at least col. 11, lines 2-9; col. 15, lines 18-25);
- the usage control policy information includes indicating whether the secondary distribution of the content between the user devices is allowed, and wherein upon receiving the receive log created for a content in which the secondary distribution is not allowed, the service provider and the clearing center nullifies settlement processing to be performed for the receive log (see at least col. 23, lines 19-38);
- each user devices for performing the transaction of the content comprises an encryption processing unit, mutual authentication processing, and the user devices attach a digital signature and verify the digital signature (see at least col. col. 9, lines 58-67; col. 10, lines 4-17; col. 12, lines 43-54; col. 15, lines 30-35; col. 16, lines 42-55; col. 17, lines 12-20);
- the user devices, service provider, and clearing center comprises an encryption processing unit, mutual authentication processing, attach a digital signature and verify the digital signature (see at least col. col. 9, lines 58-67; col. 10, lines 4-17; col. 12, lines 43-54; col. 15, lines 30-35; col. 16, lines 42-55; col. 17, lines 12-20);

- the clearing center comprises a user balance database for managing an electronic money balance of the content and creates an issue log in which an allowable amount of money is set up to electronic money balance (see at least col. 47, lines 49-67; col. 48, lines 1-43); and
- usage control policy information includes profit distribution information of the content usage fee, and where usage log and receive log include the profit distribution information, the service provider and clearing center performs the settlement processing for the content usage fee based on profit distribution information also sends the transfer request to the account management institution (see at least col. 10, lines 9-17; col. 11, lines 2-9; col. 15, lines 18-25).

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

Applicant remarks that "Gruse does not, however, teach or suggest a system relating to billing for the secondary distribution".

The Examiner notes that that Gruse does disclose the billing for the secondary distribution. In col. 14, lines 34-42, Gruse discloses an end-user device(s) manages the number of copies made in accordance with the Digital Content's Usage condition. The Usage conditions include the retail prices and copy/play restrictions for the different levels of the content (col. 21, lines 1-3). The Usage condition is performed by the Content Usage control layer in the End-user device(s). First, upon reception of the content copy from the Content Identification layer in the End user devices marks the

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content with a copy/play code representing the initial copy/play permission. Second, the Player Application cryptographically scrambles the content before storing it in the end user devices. The end user devices update the copy/play code in any new secondary copy of the content. (Col. 23, lines 39-56) Furthermore, Gruse discloses a Secure Digital Content Electronic Distribution System which enables the secure delivery of copies of the content to end-user devices and to regulate and track usage of the content (col. 15, lines 2-6). Audit logs of information for each operation that is performed during content purchase transactions and report request transaction are maintained in the Clearinghouses (col. 47, lines 49-52). The Clearinghouse keeps record of all transactions where a key exchange is cleared through the clearinghouses. This record allows for the metering of the licensing authorization and the original conditions of use. (Col. 11, lines 2-5). The Clearinghouse provides the licensing authorization and record keeping for all transactions that relate to the sale and/or permitted use of the content (col. 13, lines 45-47) and also provides billing and settlement (col. 14, lines 15-16).

Such second copy, usage conditions, audit logs maintained in the Clearinghouse are considered the system related to the billing of secondary distribution.

Applicant remarks that "Gruse does not teach or suggest that settlement logs are issued from first and second user devices and the settlement processing is then based on the settlement logs".

The Examiner directs Applicant's attention to Office Action above.

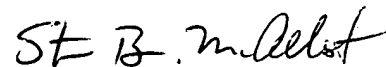
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marissa Thein whose telephone number is 571-272-6764. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alex Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mtot  
April 2, 2006



**STEVE B. MCALLISTER  
PRIMARY EXAMINER**